REMARKS

Claims 1-2, 5, 9, 11-16 and 18-20 are pending in this application after this amendment. New claims 19-20 are presented for consideration by the Examiner. No new matter has been added by the addition of new claims 19-20. Based on the amendments and remarks made herein, Applicants respectfully request reconsideration and withdrawal of the outstanding rejections.

By this amendment, Applicants have amended the claims to more appropriately recite the invention. It is respectfully submitted that these amendments are being made without conceding the propriety of the Examiner's rejections, but merely to timely advance prosecution of the present application.

In the outstanding Official Action, the Examiner rejected claims 1-2, 5, 9, 11-14 and 18 under 35 U.S.C. §101; rejected claims 1-2, 11, 13-15 and 18 under 35 U.S.C. §103(a) as being unpatentable over Kowald (U.S. Patent Application Publication No. 2003/0002715) in view of Kahn et al. (U.S. Patent Application Publication No. 2003/0126121); rejected claims 5 and 9 under 35 U.S.C. §103(a) as being unpatentable over Kowald in view of Kahn et al. and further in view of Bhatt (U.S. Patent Application Publication No. 2002/0118883); rejected claim 12 under 35 U.S.C. §103(a) as being unpatentable over Kowald in view of Kahn et al. and further in view of Sano (USP 6,079,855); and rejected claim 16 under 35 U.S.C. §103(a) as being unpatentable over Kowald in view of Kahn et al. and further in view of Tsukagoshi et al. (USP 5,848,217). Applicants respectfully traverse these rejections.

Claim Rejections – 35 U.S.C. §101

The Examiner rejected claims 1-2, 11, 13-15 and 18 asserting they are not directed to statutory subject matter. Specifically, the Examiner asserts that these claims do not produce a useful, concrete and tangible result. By this amendment, Applicants have amended these claims to more appropriately recite the invention. Based on this amendment, it is respectfully requested that the outstanding rejection be withdrawn.

Claim Rejections – 35 U.S.C. §103 – *Kowald/Kahn et al.*

In support of the Examiner's rejection of claim 1, the Examiner asserts that Kowald discloses all of the claim elements, except the selection condition setting means as recited in the claim. The Examiner asserts that Kahn et al. cures the deficiencies of the teachings of Kowald citing to Fig. 10, and paragraph [0023]. Applicants respectfully disagree with the Examiner's characterization of these references.

The Examiner asserts that Kowald discloses the qualified image extracting means by citing to Fig. 5, element 514. The Examiner asserts that Kowald discloses that the editing system 514 extracts the appropriate images that satisfy predetermined selection conditions, citing to paragraph [0050], namely sharpness, color and content quality. Applicants submit that the Examiner is mischaracterizing the teachings of Kowald.

The disclosure of Kowald is directed to a method and system (500) for automated classification of a digital image (502). The method analyses the image for the presence of a human face. A determination is then made regarding the size of the located face compared to the size of the image(FIGS. 1A-1G) to classify the image based on the relative size of the face. Alternatively, the position of the face within the image can be used to determine the classification. With a classified image, particularly forming part of a sequence of classified images, editing (514) of the sequence may be performed dependent upon the classification to achieve a desired aesthetic effect. The editing may be performed with the aid of an editing template (706) (Abstract).

Kowald discloses analyzing the content of the images and creating metadata that describes the image. The image may be analyzed to determine the type of shot (i.e., long shot, medium shot, etc,) face detection, size of detected face, etc. The images may be classified based on the analyzed image content. The automated content analysis of images permits the rapid processing of sequences of images to facilitate the formation of an enhanced edited result [0049].

In paragraphs [0050]-[0053], Kowald discloses as follows:

[0050] Metadata analysis of the source material may include the following:

[0051] (i) time code and date data;

[0052] (ii) GPS data;

[0053] (iii) image quality analysis (sharpness, colour, content quality, etc.);

Kowald discloses that the metadata analysis may include image quality analysis. However, this information is taken into account during the classification process. In other words, the image content is analyzed and information regarding the image quality may be included in the metadata. The images are then classified. The user may then access the image data based on the classification and select which images to process.

In contrast, the invention of claim 1 recites, *inter alia*, a classifying means for classifying a plurality of photographic images into similar photographic image groups, comprising photographic images which are similar to each other, the similarities being determined by analyzing digital data representing the photographic images; and a qualified photographic image extracting means for extracting photographic images, that satisfy predetermined selection conditions as qualified photographic images, from each of the similar photographic image groups.

According to claim 1, the image data is first classified into similar photographic image groups by the image classifying means. The qualified photographic image extracting means extracts photographic images that satisfy predetermined selection conditions from each of the similar photographic image groups.

Applicants submit that the Examiner's interpretation of Kowald to disclose the qualified image extracting means is improper. Kowald fails to teach or suggest extracting photographic

images that satisfy predetermined selection conditions. Further, Kowald fails to teach or suggest extracting photographic images from each of the similar photographic image groups.

As neither of the cited references, either alone or in combination teach or suggest all of the claim elements, assuming these references are combinable, which Applicants do not admit, Applicants respectfully submit that claim 1 is not obvious over the references as cited. It is respectfully requested that the outstanding rejection be withdrawn.

It is respectfully submitted that claims 2, 5, 9, 11-16 and 19-20 are allowable for the reasons set forth above with regard to claim 1 at least based on their dependency on claim 1. Further claim 18 includes elements similar to those discussed above with regard to claim 1 and thus claim 18, together with claims dependent thereon, are allowable for the reasons set forth above with regard to claim 1.

Conclusion

In view of the above amendment, Applicants believe the pending application is in condition for allowance.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Catherine M. Voisinet Reg. No. 52,327 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.
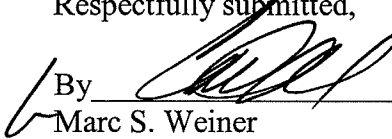
If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.147; particularly, extension of time fees.

Dated: May 23, 2008

Respectfully submitted,

By _____

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